3578/06

Filed on 24/8/06

by Shri Saleem Advocate

24/8/06

R. to D.R. (J)

(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CG)

Single Bench

Cr. M. P.

Misc.Cr.Case No. 38 Of 2006

PETITION UNDER SECTION 482 OF CODE OF CRIMINAL PROCEDURE FOR EXTENSION OF TIME

PETITIONERS : 1. Setu Ram S/o Mayaram aged about 45 years.
2. Suresh S/o Setu Ram , aged about 30 years.
3. Barat S/o Jayram Gond, aged about 32 years.
4. Jagjeevan S/o Satruhan aged about 20 years.

All resident of Village Jhadutola, Thana Sahaspur, Tahsil Kawardha, District Kabirdharm (CG).

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OATH COMMISSIONER
APARNA MALVIYA
CG 2073/96
10/07/11
Bilaspur Chhattisgarh

VERSUS

RESPONDENTS: State of Chhattisgarh,
Through Police Station – Sahaspur
District Kabirdham (CG).

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(12)

आदेश पत्रक

मामला क्रमांक Cr.M.P.38 सन् 2006

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	01.09.2006 Shri Alok Pandey, Counsel for the applicants. Heard on admission. The applicants have filed this petition under Section 482 of the Code of Criminal Procedure for extension of time for moving to the appropriate Court for grant of regular bail, which was granted to them vide order dated 25/4/2006 passed in M.Cr.C. No.467/2006. The aforesaid Miscellaneous Criminal Case was filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the applicants, who were apprehending their arrest in connection with Crime No.175/2005, registered at Police Station – Sahaspur, District – Kabirdham (C.G.) for the offence punishable under Sections 452, 294, 506, 323, 147 of the IPC and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. This Court after hearing the petition allowed the same vide order dated 25/4/2006 and directed that in the event of arrest, the applicants shall be released on bail on each of them furnishing a personal bond in sum of Rs.5000/- with one surety each in the like sum to the satisfaction of the officer arresting them. The said order was directed to remain in force for a period of 45 days, during which, the applicants had to apply for regular bail before the concerned Court.	

(पीछे देखिये)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(13)

आदेश पत्रक

मामला क्रमांक Cr.M.P. 38 **सन्** 2006

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Learned counsel for the applicants submits that thereafter, the applicants could not apply for regular bail before the concerned Court and ultimately, they have again come before this Court for extension of period, which was granted vide order dated 25/4/2006. He further submits that since the applicants could not approach to the regular court on account of certain personal reasons, its time may be extended so that they may approach to the said Court and avail the benefit of order dated 25/4/2006.

This contention of learned counsel for the applicants would not lie in reference to the law laid down by the Apex Court in the matter of ***Adri Dharan Das V. State of W.B. (2005) 4 SCC 303,*** *wherein referring to the decisions rendered in the matter of* ***Salauddin Abdulsamad Shaikh V. State of Maharashta, (1996) 1 SCC 667*** *and* ***K.L. Verma V. State, (1998) 9 SCC 348***, the Apex Court has held as follows:

> *"As observed in Salauddin case, (1996) 1 SCC 667, the protection in terms of Section 438 Cr.P.C. is for a limited duration during which the regular court has to be moved for bail. Obviously, such bail is bail in terms of Section 439 Cr.P.C., mandating the applicant to be in custody. Otherwise, the distinction between orders under Section 438 and 439 Cr.P.C. shall be rendered meaningless and redundant. In K.L.Verma case, (1998) 9 SCC 348 it was observed : "Anticipatory bail*

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आदेश पत्रक

मामला क्रमांक Cr.M.P. 38 **सन्** 2006

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

may be granted for a duration which may extend to the date on which the bail application is disposed of or even a few days thereafter to enable the accused persons to move the higher court, if they so desire". The expression "or even a few days thereafter" relates to grey areas. If the protective umbrella of Section 438 Cr.P.C. is extended beyond what was laid down in Salauddin case the result would be clear bypassing of what is mandated in Section 439 Cr.P.C. regarding custody. In other words, till the applicant avails remedies up to higher courts, the requirements of Section 439 become dead letter. No part of a statute can be rendered redundant in that manner."

In view of the above legal position, now this petition for extension of time granted to the applicantson 25.4.2006, filed under Section 482 of the Code of Criminal Procedure cannot be extended.

The petition has no merit and the same is dismissed.

Sd/-
Sunil Kumar Sinha
Judge

Shyna

(पीछे देखिये)

4/9/06